



COMMONWEALTH *of* VIRGINIA

————— *Office of the* —————

GOVERNOR

Port PPTA Update

House Appropriations Committee

October 15, 2012

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Background

- On April 4, 2012, the Commonwealth received an Unsolicited Conceptual Proposal from APM Terminals, Inc. (“APMT”) pursuant to the Public Private Transportation Act
- The PPTA was adopted by the General Assembly in 1995 and allows the Commonwealth to:
 - Receive unsolicited proposals;
 - Receive competing proposals; and
 - Negotiate with one or more proposers.
- The Governor’s test for any potential agreement regarding the port is:
 - Are there any circumstances under which a different operator makes sense?
 - Value to the taxpayers – is it an exceedingly good financial deal?
 - What other considerations need to be weighed?
- No decisions have been made on whether or not to enter into an agreement
- The Commonwealth retains the right to terminate the process at any time and is under no obligation to enter into any agreement for port operations

Background

- The Port of Virginia is a tremendous economic asset for all regions of the Commonwealth; however, recent years have presented new challenges
- The Port is one of only two major East Coast ports to have not recovered to pre-recession volumes and its market share has dropped from 2nd to 3rd
- While volumes are down, costs are growing and the Port has suffered net operating losses of \$20.5 million in FY2009, \$18.5 million in FY2010, \$20.0 million in FY2011, \$10.1 million in FY2012, and is budgeted to lose \$8.9 million in FY2013
- Three separate analyses of the Port all point to similar issues and recommend numerous areas for improvement
- Because of the challenges facing the Port, both Fitch and Moody's have warned of future downgrades if things do not improve
- The Administration, working with the VPA board of Commissioners, has a fiduciary duty to the citizens of the Commonwealth to examine all potential options for addressing these challenges, including the PPTA proposals and VIT's business plan

Completed Milestones

- April 4 – Unsolicited conceptual proposal received from APMT
- April 30 – Received addendum to the APMT unsolicited conceptual proposal
- May 23 – Accepted APMT unsolicited conceptual proposal and issued a Request for Alternative Proposals
- July 11 - Request for Alternative Proposals addendum issued to extend deadline for submission of Alternative Proposals until August 13
- July 23 – Received second addendum to APMT's proposal which addressed concerns expressed by port customers
- July 24 – Briefed VPA Board of Commissioners on APMT's proposal and process
- August 13 – Received Alternative Proposals from Carlyle and RREEF
- August 13 – Received VIT Business Plan
- August 24 – Briefed VPA Board of Commissioners on Alternative Proposals
- August 26 – Public meeting of the Legislative Review Panel
- September 11 – Extended deadline for submission of Detailed Proposals until November 1
- October 4 – VPA Board of Commissioners public hearing in Norfolk
- April/May 2013 – Proposed timeline for conclusion of process

Proposed Process Moving Forward

- Consistent with the October 3 OAG Opinion, the VPA Board and the Administration continue to work together to revise the process to clarify roles and responsibilities moving forward
- Over the coming days, the VPA Board and Legislative Review Panel will be consulted on this proposed revised process with the goal of formalizing the process and ratifying completed milestones at the next regularly scheduled November VPA Board meeting
- Contemplate extending deadline for Detailed Proposals to December 3, 2012, with goal of concluding process in April/May 2013
- Additional specifics on dates and the timeline will be announced prior to the November meeting

Proposed Process Moving Forward

- **Work group comprised of SOT, OTP3, VPA, OAG, KPMG, and outside counsel will:**
 - Conduct ongoing review of proposals and VIT Business Plan in coordination with Dr. Jim Koch and other consultants as necessary
 - Other consultants, financial advisers, economists and industry experts will be utilized as necessary
 - Coordinate day-to-day interaction with Proposers
 - Regularly update the VPA Board on the status of Detailed Proposals and evaluation process
 - Regularly provide information to the VPA Board on Detailed Proposals as it is available
 - Evaluate Detailed Proposals and make recommendation on Preferred Proposer
 - If a Preferred Proposer is selected, negotiate proposed business terms and brief Board
 - If Board approves business terms, finalize Comprehensive Agreement
- **The VPA Board of Commissioners will:**
 - Conduct its own review of the proposals and VIT Business Plan in consultation with its consultants from Drewry Maritime Advisors
 - In consultation with the Working Group, determine whether or not to select a Preferred Proposer
 - If business terms are reached, vote to approve the proposed business terms or retain VIT
 - If a Preferred Proposer is not selected or business terms are not reached, work to finalize and implement VIT Business plan

Legislative Review Panel

- Based on consultation with the House and Senate leadership, concurrently with the announcement of the unsolicited proposal, Governor McDonnell appointed a Legislative Review Panel (“LRP”) to help identify concerns and address issues from the perspective of the General Assembly
- LRP members: Senate: Majority Leader Norment; Watkins; Wagner; Stuart; McWaters; Northam; Newman House: Speaker ; Kirk Cox; Massie; Cosgrove; Knight; Purkey; Lewis; May
- LRP members were provided initial briefings following announcement of the APMT proposal and were briefed on the Alternative Proposals at a public meeting on August 26
- As the review continues, the LRP members will have access to all relevant documents and information as it is available
- LRP members will be regularly updated in one-on-one and group meetings as new information becomes available and as a proposed detailed timeline is formulated
- Once Detailed Proposals are received, the Governor will host a second public meeting of the LRP

Additional Outreach

- On July 2, the entire General Assembly was invited to schedule a one-on-one meeting to discuss APMT's proposal with Secretary Connaughton. This is a standing offer and additional invitations will be sent out as the process continues.
- Elected officials from the local jurisdictions have been provided with the official 60-day public comment period pursuant to the PPTA and have had one-on-one briefings with members of the Work Group
- As the process continues, additional briefings with the local jurisdictions will be scheduled
- Briefings have also been provided to a variety of different stakeholders such as the Virginia Maritime Association, the Virginia Chamber of Commerce and others. These briefings will continue as requested.